

Chapter VI

CLOSE-OUTS AND CLEARANCES

COMPLIANCE POLICY AND PROCEDURES MANUAL



Sales and Use Tax Department
California State Board of Equalization

December 1996

CLOSE-OUTS AND CLEARANCES

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CHAPTER VI

CLOSE-OUTS AND CLEARANCES 600.000

GENERAL STATEMENT ON CLOSE-OUTS 605.000

SCOPE OF CHAPTER 605.010

This chapter includes policy and procedures for closing-out of sales tax accounts. It covers the reinstatement of accounts closed-out in error, correction of erroneous close-out dates, and the issuance of certificates of tax clearance under the sales tax laws. Instructions for on-line input are covered in Chapter XIII, Taxable Activity Registration Account Maintenance of the On-Line User's Guide and are not detailed in this chapter.

The policy and procedural statements in this chapter generally follow the same sequence as the items shown on Form BT-406, Notice of Close-Out, beginning with Section A, Identification of Account — Close-Out Date.

THE CLOSE-OUT FORM BT-406 605.020

Closing accounts involves a greater responsibility and participation by every section of the Sales and Use Tax Department, both in Headquarters and in the field offices, than any other single function. Form BT-406 is used only in the field office and the BT-406 information is used for on-line input to remove the account from active status on the registration record, identify successor accounts, the reason for close-out, disposition of inventory, value of fixtures and equipment sold, audit recommendations, in determining successor liability, escrow and predecessor information, security information and disposition and reconciliation of returns, assessments and unpaid balances.

Extensive use is made of Form BT-406 copies by the field offices who have the responsibility for determining that all the tax due has been either paid or assessed, and that audits, where warranted, are made, escrow clearances issued, and security refunded or allotted.

Directions for completing the close-out forms should be followed in most cases. There are, however, many close-outs on small and part-time businesses where completing all of the entries serve no useful purposes. For these cases a different in-house form may be used. The office supervisor, or other experienced persons designated, should screen these out before making field assignments, telephone calls to taxpayers, or taking any unnecessary action.

WHEN TO CLOSE OUT AN ACCOUNT 605.030

Close-outs are necessary whenever the operation of a business is terminated or whenever there is a change in the ownership of a continuing business. The preparation, processing, and on-line input of a close-out form indicates that the account is closed-out and that no returns are to be filed for periods after the close-out. Close-outs should not be prepared or processed until it has been reasonably determined the business terminated rather than moved to another location or is only temporarily inactive.

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CLOSE-OUTS AND CLEARANCES

PREPARATION OF CLOSE-OUT FORM BT-406, SECTION A **610.000**

RETURN(S) FURNISHED AND REMOTE INPUT **610.005**

Check yes or no and show all periods furnished. In the "Remote Input" box enter the date the close-out is transmitted on-line to the Teale Data Center.

CLOSE-OUT OF MASTER AND SUB LOCATIONS **610.006**

If the master permit and all subpermits close out on the same date and for the same reason, the Yes box is checked and it is not necessary to close out the locations individually. In the case of Reason Code No. 4, Business Sold (New Entity), it is necessary that all locations be purchased by one entity to use this procedure.

Processing locations individually is only necessary when only a portion of a business is sold, or closed or when more than one entity acquires the individual locations.

CLOSE-OUT DATE **610.010**

The close-out date entered in the upper right corner of Form BT-406, Front and transmitted on-line, should be the actual day, if known, that the entity of record discontinued operations, stopped making sales or, for any reason, no longer requires a permit or license. If the exact date is not known, an approximate close-out date is used.

Generally a good rule to follow in selecting a close-out date, if not precisely known, is to use the last day of the month in which it is known the business was terminated.

If an approximate date is used as the close-out date, it may be corrected when the exact date is determined by use of the on-line close-out maintenance program or a Form BT-523, Tax Return and/or Account Adjustment Notice if necessary (See Subsection 350.040).

OWNER(S) — C.O. **610.020**

The entry made in this position should be the same as the owner's name shown on the registration record.

ACCOUNT NUMBER — C.O. **610.030**

The account number must be identical with that shown on the registration record. It must be legibly printed or typed so that it will not be misread resulting in closing out the wrong account on the registration record. The responsibility for a correct and legible entry rests on the person who prepares the form.

LOCATION OF BUSINESS — C.O. **610.040**

The entry should agree with that shown on the registration record.

NEW OR FORWARDING ADDRESS— C.O. **610.050**

Enter the address and telephone number where the taxpayer can be reached and/or receive mail. If a partnership, identify which partner. Enter the name and address of the employer of the taxpayer, if any, or other information that will help to specifically locate the taxpayer. New telephone numbers are important.

TYPE OR NATURE OF BUSINESS — C.O. **610.060**

This should be a description of the business operation. Whenever an ABC license is involved, the type of license should be described.

NEW OWNER(S) — C.O. **610.070**

Self explanatory. Enter all partner's names, if applicable. If no new owner, show "None".

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ACCOUNT NUMBER (NEW) — C.O.

610.080

Enter the new permit number, if issued. Otherwise, at some point in processing Form BT-406 (Pink), a check should be made as part of a final review to determine if the new owner has been properly permitted.

On-line input should not be held up for new owner, permit number, or purchase price information. These items, when obtained, should be entered by the district office on the master copy (pink) and added to the registration record using the on-line close-out maintenance program.

SUCCESSOR'S LIABILITY

610.090

The entry here should indicate either "yes" or "no". If "no", explain.

Any purchaser who buys a business or a stock of goods and fails to withhold sufficient of the purchase price to clear the account of the seller or who fails to obtain a clearance becomes liable for the amount owed by the seller to the extent of the purchase price. It is important that the form show the purchase price as accurately as can be determined and whether the new owner can be held liable as a successor. Use space immediately below, "close-out prepared by", to enter additional information.

The information entered in this respect must be accurate since it will be the basis for holding the new owner liable as a successor should such action become necessary.

*Reference: Section 6812 Sales and Use Tax Law
ales Tax Regulation 1702*

PURCHASE PRICE — C.O.

610.100

An entry should be made when applicable. The dollar amount entered in this section should be the total price paid by the successor for the business including any liabilities assumed, good will and the purchase of fixtures and equipment. If the total price includes inventory, so state, and show the approximate value of inventory separately.

REASONS FOR CLOSE-OUT

610.110

One of the boxes numbered 1 through 8 must be checked in this section. Failure to check one of the boxes will result in the on-line input entry being rejected by the computer.

Code Number 1. Did not operate

When a permit has been issued and it is later determined that no actual operation of the business took place, the account will be closed out with a close-out date identical to the starting date shown on the registration record. Code No. 1 will be checked in the "reason for close-out" section.

Code Number 2. Business discontinued - no successor

When the business is terminated with no sale to a successor, the close-out should be initiated as soon as possible. Any person whose business is terminated but is holding a permit in anticipation of re-entering business should be instructed to complete the close-out, surrender the permit, and file a new application when re-entering business pursuant to Section 6072 of the Sales and Use Tax Law.

Permits held solely for the purpose of making purchases at wholesale should be closed out. The provisions of Section 6094.5 should be brought to the attention of the buyer in these cases. In the foregoing situations, Code No. 2 should be checked.

CLOSE-OUTS AND CLEARANCES

REASONS FOR CLOSE-OUT

(CONT.) 610.110

Code Number 3. Business discontinued — Assignment or bankruptcy

When the person holding the permit makes an assignment for benefit of creditors or is adjudicated a bankrupt, a close-out will be initiated. Code No. 3 is checked only when there is no continuation of the business by the assignee or fiduciary appointed by the court. For assignments or bankruptcies where the business is continued, see “other reorganization” following.

Code Number 4. Change in ownership — Business sold (new entity)

If the business is being sold a close-out is required and a new application should be completed as soon as possible after the date of the ownership becomes known.

Code Number 5. Change in ownership — Change in partnership

If the business is being continued, but with the addition or dropping of a partner or partners, a close-out is necessary and a new application should be completed as soon as possible after the change of ownership becomes known. (See Subsection **615.010**).

Check Code No. 5 under “Reason for close-out”. Code No. 5 is also checked when there is a change in the form of ownership, such as the incorporation of a partnership.

Code Number 6. Change in ownership — Other reorganization

In the case of an assignment for benefit of creditors, bankruptcy, receivership or probate where the business is continued by a fiduciary appointed by the court, Code No. 6 will be checked.

In these instances, the new owner is not liable under successor’s liability. This is because they are appointed by the bankruptcy or superior court or through an assignment for benefit of creditors to operate the business.

Code Number 7. Issue and cancel (See Subsection 240.140)

This code is marked when a notice of close-out is prepared at the same time as the application for permit. This occurs when a business has operated unlicensed prior to the time the application is prepared for the business, it is no longer active, and payment in full has not been received.

A photocopy of the Form BT-406, Front, should be attached to the Headquarters copy of the permit application and the two documents transmitted to Taxpayer Records Section together, after processing the close-out on-line..

Code Number 8. Close-out After Revocation

Close-out code “8” signifies an account was closed out after revocation occurred, regardless of whether the close-out date occurred before or after the effective date of revocation. Close-out code “8” is used in lieu of any other close-out codes on all revoked accounts and/or sublocations of a revoked account which have operated. Reason code “8” is used for any sales and use tax account.

Revoked accounts will be closed out only after investigation has positively confirmed the account has ceased doing business, either through phone calls, field investigation or contact with the taxpayer. Returned mail in itself is NOT sufficient cause to close the permit as a taxpayer may simply be operating at another location. See Section 360.140.

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REPORTING BASIS — C.O. 610.120

This item must be checked to reflect the reporting basis shown on the registration record even if the basis is different from that in effect on the close-out date.

STARTING DATE — C.O. 610.130

The month and year inserted here must agree with the registration record.

OTHER BOARD ACCOUNT NUMBERS 610.140

This item must always show one of two entries:

- a. "None" — if no other accounts have been issued to the entity of record.
- b. Appropriate account numbers must be entered in their entirety, if applicable.

CLOSE-OUT PREPARED BY — OFFICE – DATE 610.150

These items are self-explanatory and must be filled in. The date shown should be the day Form BT-406 is prepared.

ACCOUNT RECORD VERIFIED BY 610.160

Before input of the Form BT-406, Section A information, the items entered thereon must be checked against the registration record. The person whose initials appear in this box will verify the accuracy and legibility of the owner's name, the account number, the close-out date, and the indication of a reason for close-out. The importance of legibility and accurate information on the close-out form cannot be overemphasized.

PREPARATION OF CLOSE-OUT FORM BT-406, SECTION B 615.000**VALUE OF FURNITURE AND EQUIPMENT SOLD — SUBJECT TO TAX 615.010**

The tax applies to that portion of the gross receipts from the sale of a business that is attributable to the transfer of tangible personal property held or used in an activity for which the seller is required to hold a seller's permit, and acquired by the purchaser for use rather than for resale.

The tax also applies to that portion of the gross receipts from the sale of a business that is attributable to the personal property transferred, even though such property was held or used in an activity for which a seller's permit was not required, where the property was sold in separate sales or to three or more buyers when the sales are significant in size, scope and character.

In the case of contributions to beginning partnerships or corporations, the tax applies to that portion of the consideration received which does not represent capital interest in the new partnership or first issue stock in the new corporation. See the following regulations for more complete detail and exemptions.

Reference: Sales Tax Regulations 1595 and 1573

TAXABLE SALES OF EQUIPMENT NOT REPORTED 615.020

If taxable sales of equipment occurred during the operation of the business, the taxpayer should report and pay the tax on the return for the period in which the sales occurred. Tax on sales of equipment should also be included on prepayment forms when the amount of prepayment due is determined by use of Option 1. If the taxpayer neglected to report taxable sales of equipment, the additional tax should be recommended on a BT-1043-D, Determination Request, or a Tax Return Adjustment Voucher, Form BT-1043, when payment in full is received and no penalty is involved. Additional tax can be included in a BT-414-B, Field Billing Order or an audit if one is to be made. (See Subsections 540.190 and 540.200.)

If the sale of equipment was made in conjunction with the sale of the business it should be included in the closing return on line 2 and marked "Fixtures and Equipment". It should also be included on prepayment forms when determining the amount of prepayment by use of option 1. If the closing return has already been filed by the time the close-out is made and the sale was not included, a Form BT-1043-D should be prepared recommending assessment of the tax or, if payment in full is made and no penalty is involved, a Tax Return Adjustment Voucher, Form BT-1043, should be used.

SALE OF FIXTURES SUBSEQUENT TO DATE OF CLOSE-OUT 615.030

If a sale of fixtures and equipment is not contemplated at the date of close-out, a subsequent single sale of the fixtures may be treated as an occasional sale. However, the single sale of fixtures and equipment subsequent to the date of close-out is taxable if either:

- a. The sale occurs within 60 days of the date of close-out and the taxpayer cannot establish that the sale was not contemplated at the time of close-out; or
- b. The sale takes place after 60 days and within one year of the close-out date, and:
 1. A contract of sale existed at the date of close-out, or
 2. A lease with an option to buy exists, or
 3. Arrangements are in existence evidencing a plan to sell the fixtures and equipment in due course.

COMPLIANCE POLICY AND PROCEDURE MANUAL

SALE OF FIXTURES SUBSEQUENT TO DATE OF CLOSE-OUT (CONT.) 615.030

Unless the taxpayer makes sales which would otherwise qualify him as a retailer, a sale will be considered exempt if it occurs over 12 months after the last prior sale. This is true even though there is a contract of sale or an option in existence at the close-out date. If taxable it may be reported on a BT-1043, Tax Return Adjustment Voucher.

F & E INCLUDED IN FINAL RETURN, BT-1043, BT-1043-D, BT-414-B OR AUDIT 615.040

Check the appropriate box to indicate how the tax on the sale of fixtures and equipment is being reported.

SOURCE OF INFORMATION RE VALUE OF FURNITURE AND EQUIPMENT 615.050

Enter source of information, such as escrow, buyer, seller or books and records. Refer to the applicability of Sales Tax Regulations 1595 and 1573.

DISPOSITION OF INVENTORY, PURCHASED FOR RESALE OR FROM OUT-OF-STATE IS INCLUDED IN 615.060

Make appropriate indication as to disposition of inventory in this section. Any inventory purchased ex-tax and retained for personal use is taxable and should be reported in the final return.

FORM BT-467 TO BE ISSUED 615.070

If a Form BT-467, Notice of Requirements in the Sale of a Business, is to be issued, check the yes box.

REQUEST IN WRITING FOR FORM BT-471, CERTIFICATE OF PAYMENT OF SALES AND USE TAX 615.080

This box must be checked either "yes" or "no" and the date it is received must be entered if the "yes" box is checked. (See Section [650.000](#)).

LOCATION OF RECORDS — C.O. 615.090

Enter the physical location of the books and records of the owner(s).

IN CARE OF — C.O. 615.100

This entry should show the name of the person who has control of the books and records, such as an accountant, an attorney, bankruptcy court, etc.

DATE PRIOR AUDIT COMPLETED 615.110

If a prior audit has been made, the information will be found in the master file of the closed out account. When applicable, this box should be completed, along with the next section, covering period, together with the liability recommended section.

CLOSE-OUTS AND CLEARANCES

AUDIT RECOMMENDED

615.120

Tax Representatives or other compliance titled personnel familiar with the area in which the business is located and/or having special knowledge or information of the account available to them, should make the initial audit recommendation. The same standards that are used for audit selection of active accounts will be used in making recommendations on close-outs. If the compliance titled person has no specific information on the business, the audit recommendation will be made by the audit staff. However, if the compliance titled person has any information which may assist the auditor in making his decision, he must note it on or attach it to the BT-406.

Examination of the taxpayer's records may be necessary; however, the "Active Account Inventory List" that shows taxable sales and exemptions claimed for the previous year is available in every district and sub-district office. Prior audit and return information is also available on the video to assist in the recommendations. The final audit decision is the responsibility of the District Audit Section.

Because only a small portion of the total close-outs will be audited, verification of payment or recommended assessments for additional tax due, is the responsibility of the compliance section where no audit is to be made. Form BT-414-B, Field Billing Order, BT-1043-D, Determination Notice or Form BT-1043, Tax Return Adjustment Voucher, where appropriate, will be used when unreported sales are found. Particular attention must be given to the disposition of remaining inventory and fixtures and equipment.

AUDITOR'S WORKSHEET FORM BT-414, ETC.

615.130

This item will be completed by the audit staff when applicable.

AUDIT RECOMMENDED BY

615.140

The person making the audit recommendation should sign their name in this box, and enter the date of the recommendation in the next box.

APPROVED BY — AUDIT

615.150

This will show the signature or initial of the person or his delegate in the district office having the responsibility for audit selection.

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CLOSE-OUTS AND CLEARANCES

PREPARATION OF CLOSE-OUT FORM BT-406, BACK

620.000

ESCROW AGENTS AND PREDECESSORS

620.010

The name and address of the escrow agent and the telephone number, if available, should be entered in the appropriate section, or enter the word "none".

TAX LIABILITY IN PREDECESSOR'S ACCOUNT — C.O.

620.015

This should be marked either "yes" or "no" and the predecessor's account number entered in the box. If there is no predecessor, the word "none" should be entered in the box.

If there is a predecessor's balance, the information should be shown beneath the "yes" and should indicate the type of billing, the date of the billing and the amount due.

DISPOSITION OF SECURITY AVAILABLE

620.020

Savings and Loan Certificates: Enter the dollar amount of the savings and loan certificate as its face value here. If the savings and loan certificate is to be cashed and applied, check the Cash and Apply box. If it is to be released, check the Release box.

Time Certificate of Deposit: Enter the dollar amount of the face value of the time certificate of deposit in this section. If the time certificate is to be cashed and applied, check this box; if it is to be released, check the Release box.

Treasury Bond: Enter the face value of the treasury bond, along with the number of the bond. If the treasury bond is to be cashed and applied, check this box; if it is to be released, check the Release box.

Surety Bond: Enter penal sum, number and effective date of bond.

Name of Surety: Enter the name of the surety company in this section.

Other: Form BT-140's (personal guaranties), Federal or State Credit Union Shares.

Security Under Other Business Tax Accounts: Check "yes" or "no" in this section. If "yes" is checked, the amount section should show the face dollar value of the security; and the account number should be entered in the appropriate box.

Balance and Delinquencies: If applicable, these two sections should show how much money is due, the type of billing, and the period of the billing or what period is delinquent. The delinquency period should be shown as follows:

If a quarterly delinquency is listed in this section, it should be shown as 1-95, 2-95, 3-95, 4-95, etc.

If a monthly delinquency is listed in this section, it should be shown as Jan-94, Feb-95, etc.

If an account is delinquent for the year, the delinquency should be shown as: Yr. 94, Yr. 95, etc.

If an account is delinquent for the fiscal year, this section should show: FY 94-95, etc.

Date Bal. and Del. Checked: Should be as current as possible. If an old date appears here, it should be erased or crossed out, bal. and del. checked again, and the new date entered.

Cash Deposit: Show the full dollar amount of cash deposit available for application.

Returns and Billings: The Final Return section should be completed and correspond with the close-out date on the front portion of Form BT-406. The Period for this section should be written as indicated in the above delinquency examples.

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DISPOSITION OF SECURITY AVAILABLE

(CONT.) 620.020

There are two sections below Final Return that are captioned Return. These three sections should follow in consecutive periods beginning with the Final Return Period.

BT-1043-D: Enter (if applicable). The period and date of the BT-1043-D.

Field Billing Order: Enter (if applicable). The period and date of the field billing order.

Final Audit: Should be filled in as soon as amount of determination is known, usually done by the audit reviewer.

Unpaid Balance: Enter the type of billing and the period or periods covered by the billing, such as Form BT-1212, period 1-85, or the applicable form.

Predecessor's Balance: Enter the appropriate billing and the period of such billing in this section.

Liability Under Related Account Numbers: Will indicate the type and period of billing with account number(s) in this section.

Total Due: Enter the dollar amount of the tax due in each block corresponding to the appropriate left-hand column entry.

Amount Paid: An entry will be made here only when a taxpayer, his agent or representative, or an outside fiduciary, such as an escrow company actually has paid funds to the Board for this account. Payment to clear a closed out account should be in cash or its equivalent. However, personal checks may be accepted but before security can be released/refunded or a clearance certificate issued either:

1. proof of payment of the check will be required or
2. a sufficient period of time must elapse to ensure the check will not be dishonored by the taxpayer's bank. A sufficient period of time is considered to be up to a maximum of sixty working days unless, in certain isolated instances, to protect the Board's interests, a longer period is required. If a shorter period than sixty days, depending upon banking situations, bad check history, etc., in your district, can be used, you should do so.

Payments made by personal checks will be identified by circling the amount, i.e. \$265.15.

Evidence of Payment: Enter the date and receipt number of payments made in the district office. Enter the check legend (batch numbers and date) of canceled checks presented as proof of prior payment. If no proof is available enter the word "none".

Deduct: This column is used to deduct from a savings and loan certificate, a time certificate of deposit, a treasury bond, or a cash deposit. All deduct items should show the dollar amount in the Deduct column.

The Total Deductions must not exceed the total amount of cash available to apply to the liability owed. If the total deductions are less than the total security available, another computation must be made in the section that says Amount to be Refunded. The box that indicates To: Name must be filled out completely, showing the address, city, state, and ZIP code, if available. This responsibility rest with the person and office preparing this part of the form even though the pink Form BT-406 will be sent to another office (district of control) for preparation of a refund check.

Balance Owning: Check and enter dollar amount, when applicable. Check escrow claim or escrow withhold, when applicable.

Escrow Claim Filed: Must be checked and filled-in, if appropriate.

CLOSE-OUTS AND CLEARANCES

DISPOSITION OF SECURITY AVAILABLE

(CONT.) 620.020

Escrow Withhold Filed: Must be checked and filled-in, if appropriate.

Escrow Release Approved By: The signature or initials of the person designated, usually the office supervisor, should be entered here.

Security Report Prepared By: The signature or initials and date will be entered in this section by the security clerk.

Security Report Approved By: The signature or initials of the person designated, usually the office supervisor, and the date, will be entered in this section as evidence that all actions required have been taken.

ORDER OF APPLICATION OF CASH DEPOSITS AT CLOSE-OUT

620.030

Whenever a cash deposit is to be applied to more than one period or liability, the order of allocation shown below, will be followed and interest and penalty will be computed accordingly.

- a. To self-declared tax due for the final reporting period.
- b. To self-declared tax due for any preceding reporting period when the due date for such period is on or after the close-out date.
- c. To tax determined to be due for the final reporting period.
- d. To tax determined to be due for any preceding period when the due date for such period is on or after the close-out date.
- e. To any and all liabilities allocated to the oldest delinquent liability first, the next oldest delinquent liability second, etc.
- f. To an audit determination allocated to the oldest liability first.
- g. To interest and penalty.
- h. The remainder of any security is available for other business taxes accounts held by the same entity.

No reallocation will be made in those instances where a deposit has been applied in compliance with the above order of allocation and, at a subsequent date, additional unpaid liability is disclosed. For example, a deposit might be applied in its entirety in accordance with items a, b, and e, but an audit made sometime later disclosed liability contemplated by items c and d. Under such conditions, the deposit will not be reallocated.

Reference: Section 6815 Sales and Use Tax Law

APPLICATION OF CASH DEPOSIT TO AMOUNTS DELINQUENT ON CLOSE-OUT DATE

620.040

If any portion of a cash deposit is applied upon close-out to an amount of tax which was delinquent on the close-out date, interest must be computed and penalty added to the date on which the cash deposit became available. If any liability of this type exceeds the amount of cash deposit available for application thereto, interest and penalty must be computed to the date of payment on the portion not paid from the cash deposit.

APPLICATION OF CASH DEPOSIT TO INTEREST AND PENALTY

620.050

No portion of a cash deposit should be applied to interest or penalty until all tax liability has been paid.

ERRONEOUS REFUNDS OF CASH DEPOSITS

620.060

If a cash deposit, available on the close-out date of an account, is erroneously refunded instead of being applied to a return, no interest or penalty will be added to the amount which should have been paid from the security where these charges would have accrued solely because of the erroneous refund. The billing (Statement of Account) will, however, provide for additional penalty if not paid within thirty days and appropriate monthly interest will accrue from the last day of the month following the penalty date.

If a final audit is made, effect will be given to the erroneously refunded security (or any portion which would have been available to apply on the audit) in the computation of interest and penalty included in the billing. The billing (Determination) will, however, provide for additional penalty if not paid within thirty days and appropriate monthly interest will accrue from the last day of the month following the penalty date.

In cases where nothing is owing at the time a refund is made and a liability is later developed through an audit, interest and penalty charges will be added as though no security was available.

CLOSE-OUTS AND CLEARANCES

PROCESSING CLOSE-OUTS

625.000

ROUTING FORM BT-406 BETWEEN DISTRICTS

625.010

Districts are not restricted from processing on-line input on another district's account. Therefore, when Form BT-406 is prepared in a district other than the district controlling the account, the information will be input on-line before the form is routed to the district of control for further processing.

CLOSE-OUT OF ACCOUNT IN REVOKED STATUS

625.030

The processing of a close-out will remove an account from revocation status. However, if the account is later reinstated as an account closed out in error, a reinstatement application, Form BT-400-REIN, and a \$50.00 fee for each selling location will be required.

CLOSE-OUT OF ACCOUNTS IN GOOD STANDING (NOT REVOKED)

625.040

All in district close-outs are processed on-line by the district of control. Close-outs may be processed on-line without completing a BT-406 when the circumstances and district policy do not require the need for a BT-406. Refer to your immediate supervisor to determine when a BT-406 is required.

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CLOSE-OUT IN ERROR**635.000****GENERAL LIMITATIONS****635.010**

An account closed out in error may be reinstated not later than eighteen calendar months after the date the district processes the close-out on-line, provided all delinquencies have been cleared.

Where operations have actually ceased at the specific location and a close-out has been processed, the account will not be reinstated if operations are resumed at this or any other location at a later date. A new application must be prepared and a new permit number issued.

REINSTATEMENT AFTER CLOSE-OUT — REINSTATEMENT AFTER REVOCATION 635.020

Reinstatement after close-out in conjunction with a reinstatement after revocation is accomplished on-line by using the AR, Reinstatement of Account Closed in Error program. The appropriate reinstatement fee is required. If the reason for close-out is code 8, a new permit is generally required since code 8 indicates the actual discontinuance of business operations has been verified.

REINSTATEMENT OF ACCOUNT AFTER CLOSE-OUT IN ERROR 635.030

When a closed out account is to be reinstated after close-out in error, use the on-line AR, Reinstatement of Account Closed in Error program. Accounts which have actually ceased business operations for a full reporting period may not be reinstated. A new permit is required in this case (see 635.010 above).

REINSTATEMENT OF ACCOUNT AFTER CLOSE-OUT — INTRADISTRICT MOVE 635.040

The reinstatement of a sales tax account now operating at a different location within the same district does not require special handling. After reinstating the permit on-line (635.050) make the necessary address changes using the on-line AM, Taxable Activity Maintenance program.

REINSTATEMENT OF ACCOUNT AFTER CLOSE-OUT — INTERDISTRICT MOVE 635.050

The reinstatement after close-out of a sales tax account in conjunction with an interdistrict move requires special handling after the account has been reinstated and the address changed. See CPPM Section 315.000 et. seq. for instructions.

CHANGE OF INCORRECT CLOSE-OUT DATE 635.060

If the close-out document has been processed and transmitted to Headquarters and it is later found that the close-out date shown was incorrect, the date may be corrected on the on-line close-out maintenance program or by completing Section 1 of the Form BT-523, Tax Return and/or Account Adjustment Notice when moving returns is necessary. Clarifying comments may be entered in Section 8 of the form (See Subsection 350.040.).

When the new close-out date falls within the same reporting period as the old date and the period involved is not delinquent and no reallocation of local tax is required, it will not be necessary to complete Form BT-523 for Headquarters. The change in close-out date may be made on-line using the CM, Close-out Maintenance program.

COMPLIANCE POLICY AND PROCEDURE MANUAL

REINSTATEMENT OF CONSOLIDATED ACCOUNT CLOSE-OUT IN ERROR, MASTER AND SUBPERMITS

635.070

Consolidated master and subpermits are all reinstated on-line using the AR, Reinstatement of Account Closed in Error program. If the master has been closed out in error it may be reinstated with all subpermits, or the subpermits may be reinstated individually. Refer to Section 315.000 et. seq. and the Taxable Activity Registration User's Guide for additional policy and procedure.

MISCELLANEOUS — CLOSE-OUTS**645.000****PROOF OF PAYMENT****645.010**

Proof of payment should be obtained for all reporting periods with due dates within three months of the current month.

If at close-out there are delinquencies, the representative should attempt to secure the returns and payment from the taxpayer. The same should be done with respect to any balances which might be owing. If these items are not cleared at the time of close-out, subsequent efforts will be necessary. (See Subsection **620.020** "Amount Paid".)

CLOSE-OUTS OF TEMPORARY SELLERS' PERMITS**645.020**

It is not necessary to process close-outs on temporary seller's permits. The filing of the return covering the period of operations is sufficient to close the account. If the return is not filed, a delinquent notice is mailed from Headquarters and a special list of delinquent temporary accounts is supplied the district each month.

DISPOSITION OF PERMITS AND LICENSES**645.030**

Upon closing an account, the former permittees are required to surrender their permits. A reasonable effort should be made to obtain the permit or license to prevent its misuse for purposes of evading the tax. If the permit cannot be located, the person should be instructed to destroy it if found.

COLLECTION RESPONSIBILITY ON CLOSE-OUT ACCOUNTS**645.040**

The responsibility for collecting any balance due on a closed-out account remains with the district in which the person last held a permit or license prior to the close-out date. If a balance is owing at the time of close-out, or is later developed, the amount due will remain on the accounts receivable of the district in which the person last held a permit or license until it is collected. No request for a transfer to another district of a closed-out account should be made even though the person moves to another district. When this occurs, the district to which the person has moved should be provided with full particulars regarding the liability and should be requested to make collection. District account files should not be transferred on closed out accounts.

CLEARING DELINQUENT CLOSED-OUT ACCOUNTS**645.045**

A designated clerical employee, no less than once a month, will use the video to produce listings of delinquent temporary accounts and delinquent closed-out accounts (!DEL 7 and !DEL5). Delinquencies due to misdirected or erroneous documents will be cleared by proper routing of forms or preparation of account maintenance documents as needed.

Staff permitting, clerical personnel should take additional steps as the following to clear delinquent periods on district designated account categories:

1. Contact by letter (Form BT-65) or telephone.
2. Perform preliminary skip tracing (check references, video and telephone books).
3. Mail notice to appear (Form BT-420).

Delinquencies which are not cleared within 30 days of contact will be referred to the supervisor or as instructed.

If the taxpayer cannot be contacted and the account appears to meet waiver of return criteria, a Form BT-657 will be prepared (See Subsection **645.050**).

CLEARING DELINQUENCIES OF SMALL ACCOUNTS

645.050

Generally, accounts coded 29, part time or 28, itinerant, fall into this category. Frequently, excessive amounts of time and effort are necessary to clear delinquencies even though a small liability is involved.

The following procedure may be used to reduce costs when closing out a small account where delinquencies exist, security is not available, there is no successor, and the taxpayer cannot be located:

- a. Determine the potential tax liability.
- b. If you determine the potential tax liability would be less than \$100, prepare Form BT-657, Waiver of Liability For Delinquent Period — Closed Out Account.

The District Tax Administrator, or his/her authorized representative, has final responsibility for approval of the waiver of delinquencies and he/she or his/her designated employee will indicate approval for the action by signing the form.

RECORDS NOT AVAILABLE AT TIME OF CLOSE-OUT

645.060

Even though taxpayers and their records may be missing at the time of close-out, action must be taken to close their accounts, clear any delinquencies that might exist, and dispose of any security that might be posted.

If necessary, review the on-line pay record. This will provide information on sales reported for prior periods. This will also provide a basis for estimating amounts to clear any delinquencies that exist. When a field billing order is prepared to clear delinquencies, Form BT-523, Tax Return and/or Account Adjustment Notice, must also be prepared to identify the delinquencies being cleared.

If the business operated for a short period and no returns were filed, some reasonable method of estimating the sales must be found. The returns of a predecessor or successor for a similar type of business in the same area may provide some help.

Any estimates on billing orders should be made on a sound basis. The estimated amounts should be as near as possible to the amount of tax actually due without regard to security available, possibility of immediate collection, or any other outside influence.

OUT-OF-STATE CLOSE-OUTS — SALES TAX

645.070

When processing close-outs on out-of-state accounts, the close-out forms should be completed insofar as possible from information available in the district. After all information available is entered, the original and all copies of the Form BT-406 will be forwarded to the Out-Of-State District.

OUT-OF-STATE CLOSE-OUTS — SINGLE OUTLET, IN-STATE LOCATION

645.080

Single outlet in-state sales and use tax accounts with out-of-state books and records are assigned to the Out-Of-State District. When close-outs of this type of account are made, the Out-Of-State District will send a copy of the Form BT-406 to the office involved. The Out-Of-State District will also notify districts involved in interdistrict transfers of these accounts.

CLOSE-OUTS AND CLEARANCES

TAXPAYER DEPARTED FROM STATE WITH RECORDS

645.090

If, after termination of a business, the taxpayer leaves the State with his/her records, and if his/her out-of-state address is known, he/she should be informed by mail of the close-out requirements. If he/she fails to respond and returns remain unpaid after the due date, an estimated determination may be recommended using a BT-1043-D. If there appears to have been a substantial understatement of tax, an audit may be scheduled and referred to the Out-Of-State District with all information available.

CLOSE-OUT AND AUDIT RECORD RETENTION PROCEDURES OF VEHICLE DEALERS IN CALIFORNIA

645.120

Department of Motor Vehicles:

- a. When a DMV investigator finds that a vehicle dealer has closed out, sold his/her business, or not renewed his/her dealer's license, the local Board office will be notified by telephone. If the Board wishes to audit the business and requires the report of sale books, which the dealer turns over to DMV, they will be delivered to the Board. If the Board does not require the report of sale books, the dealer's copies will be destroyed immediately. DMV retains its copies for one year. When there is no further need of the report of sale books, they will be returned to DMV to be destroyed. DMV will also provide the close-out date and location of books and records if known.
- b. When DMV is reviewing a dealer's report of sale books and finds evidence of noncompliance with DMV laws, copies of the reports of sale indicating noncompliance will be sent to the local Board office.

Board of Equalization

- a. The Board will do the following when it discovers that a vehicle dealer has closed-out or sold his business:
 1. Notify the DMV office closest to your location by telephone.
 2. Give the required vehicle dealer information to any field investigator at the DMV office contacted.
 3. Request report of sale books if required.The Board will also provide the close-out date and location of books and records if known. If DMV has not already contacted the dealer, they will do so and therefore either deliver the report of sale books to the Board or destroy them, depending upon the Board's requirements.
- b. The Board will notify the local DMV office by telephone when either of the following situations arise on active vehicle dealer accounts:
 1. A vehicle dealer has an outstanding liability which requires a field assignment.
 2. A vehicle dealer is being audited and it appears the dealer is in financial trouble. Before contacting DMV and providing this information the following conditions must exist:
 - A. Based on the audit it does not appear the business is properly financed to clear the probable liability.
 - B. There is factual information produced through our audit that the business is in financial trouble.
 - C. The District or Subdistrict Administrator approves the telephone call.

A notation that DMV has been contacted should be entered on the compliance or audit assignment report or Form BT-129, Summary of Action.

ANNUAL REVIEW OF ACCOUNTS REPORTING NO SALES**645.130**

Annually, in March, Form BT-1293 is sent to those accounts which the computer records indicate made no sales. This occurs when there is no entry on Line 1 of the return and zero tax shown on the "Total Amount Due and Payable" line.

The taxpayers must respond to Form BT-1293 in order to retain their permit. Those who do not respond, or who give insufficient reason to retain their permit, will be automatically closed out.

Taxpayers who complete the Request for Retention of Seller's Permit on the back of Form BT-1293 will return them to the district office. Each request received must be evaluated to determine whether or not the taxpayer should retain the permit.

District offices will receive a list of the district accounts which receive Form BT-1293. The list is in terminal digit order, and shows the account number, owner's name, DBA, reporting basis, industry code and area code.

The list will be prepared for Data Processing input by circling the account number of the accounts which are not to be closed-out (see sample below):

SR AC 11-619600	Melvin Avenue School ...etc.
SR AC 11-640100	A. G. Silverberg ...etc.
SR AC 11-667800	F. Nyden ...etc.

Those accounts not circled will be closed-out. It is extremely important that this instruction be followed carefully and exactly since the close-outs will be processed through a mass change. The effective close-out date for fiscal yearly basis accounts will be June 30 of the prior year. The effective close-out date for all other accounts will be December 31 of the prior year. Form BT-406, Notice of Close-Out, will not be prepared for these accounts.

The district office will continue to evaluate the Requests for Retention of Seller's Permit and to mark the list accordingly until mid May. At that time, the list will be sent to Headquarters Registration Unit. Data Processing will then print Form BT-1293-A, Notice of Cancellation of Seller's Permit, which will be sent to the accounts which the district indicates are to be closed-out.

If an account has been closed out by remote input, or by Form BT-406 process, but appears on the list of accounts reporting no tax, the account number of the closed-out account should also be circled. This will ensure that accounts which are already closed-out do not receive Form BT-1293-A, "Notice of Cancellation of Seller's Permit" letter.

In addition to the Forms BT-1293-A, the districts will receive a list of accounts which have been closed-out. This list will indicate whether or not the account has a security deposit. The type and amount of security will not be shown.

Obviously, some taxpayers will send in their request for retention after the deadline. For a few days after returning the list to Headquarters, you may call Headquarters Registration Unit to give them the number of an account that is not to be closed out. The number on your list will be circled to stop the close-out.

After the Form BT-1293-A letter is sent, it will be necessary to reinstate the account in the regular manner. Accounts closed out via the BT-1293 process will show code 9 as reason for close-out on the registration record.

SALES TAX CLEARANCES**650.000****EFFECT OF SALES TAX CLEARANCE****650.010**

Certificate of Sales and Use Tax Clearance are issued under the provisions of Section 6812 of the Revenue and Taxation Code. Their issuance and the responsibility for determining when they should be issued is a district office function.

The only effect of issuing the clearance is to protect the purchaser of a business from being held liable as a successor for amounts which the seller fails to pay, limited to the extent of the purchase price. **It has no effect in relieving the seller of any liability.**

Clearances should not be issued until all of the liability of the seller has been determined and paid, or security in accordance with Section 6813 of the Revenue and Taxation Code has been posted. If an audit is to be made, issuance of the clearance should be withheld until the audit has been completed and the liability, if any, has been paid, including any successor's liability, or as stated above security is posted in accordance with Section 6813 of the Revenue and Taxation Code.

WHEN TO ISSUE SALES TAX CLEARANCES**650.020**

When the purchaser of a business or his/her agent makes a written request for a sales tax clearance, the Board must either issue the certificate of sales tax clearance or mail a notice to the purchaser at his/her address, as it appears on the records of the Board, of the amount that must be paid as a condition of issuing the certificate. The Board must either issue the certificate or mail the notice of payment due within 60 days after receipt of the request by the Board, within 60 days from the date on which the former owner's records are made available for audit, or 60 days from the date of the sale of the business or stock of goods, whichever expires later.

Should the Board fail to mail the notice within the prescribed period of time, the purchaser is released from any obligation as a successor.

- Issue a BT-471, Certificate of Payment, when it has been determined that no tax, interest or penalty is due from the seller for the period of operation.
- Issue BT-1274, Notice of Amounts Due and Conditional Release, when it has been determined that there is or will be tax, penalty or interest due from the seller for the period of operation. See **650.030** following.

Reference: Section 6812 Sales and Use Tax Law

CONDITIONAL SALES TAX CLEARANCES TO ESCROW AGENTS**650.030**

After a clearance has been requested by an escrow agent and a liability is owed by the seller, a BT-1274 may be furnished to the escrow agent with a letter of transmittal stating that its use is conditional upon payment of the amount due. If there is any reason to believe that payment from the escrow agent is uncertain, or no escrow agent is involved, the release should not be issued until full payment has been received. A copy of every release should be routed to Headquarters Special Procedures Section.

SALES TAX CLEARANCE FOR NON-TAXABLE OPERATIONS**650.040**

Any request for a clearance for the sale of a business not requiring a seller's permit may be complied with after it has been verified that no seller's permit was required. The sale of the equipment, along with a business of a type not required to hold a seller's permit, is regarded as an occasional sale and is not taxable unless it is one of a series of sales that would cause the owner to be a retailer of fixtures and equipment. The regular clearance form may be used in these situations.

Reference: Sales Tax Regulation 1595

COMPLIANCE POLICY AND PROCEDURE MANUAL

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USE TAX CLEARANCE**655.000****FORM BT-111, CERTIFICATE OF MOTOR VEHICLE/MOBILEHOME
USE TAX EXEMPTION****655.032**

Except for those vehicles requiring Form BT-1138, Certificate of Excise Tax Clearance, transfer of the registration of any vehicle/mobilehome subject to use tax under the Sales and Use Tax Law may be effected by DMV/HCD only after use tax has been paid directly to that department or a Form BT-111, Certificate of Use Tax Exemption, has been issued by the Board. Form BT-1138 is only required of vehicles powered by Use Fuels (LPG, CNG, and alcohol fuels) and any transfers of diesel powered vehicles prior to July 1, 1995. In these instances the taxpayers should be referred to the Fuel Taxes Division.

FORM BT-111-B, CERTIFICATE OF VESSEL USE TAX EXEMPTION**655.033**

Transfer of the registration of any undocumented vessel subject to use tax under the Sales and Use Tax Law may be effected by the Department of Motor Vehicles only after use tax has been paid directly to that department or a Form BT-111-B, Certificate of Vessel Use Tax Exemption, has been issued by the Board.

ISSUANCE OF FORMS BT-111 AND BT-111-B**655.034**

Forms BT-111 and BT-111-B are issued at the district or branch office by an employee authorized by the district administrator. A list of employees authorized to sign and issue certificates should be maintained in each office. The person who approves the Form BT-106 may also sign the certificate. However, if the same person prepares and approves the Form BT-106, a different person should sign the certificate. Rubber stamp signatures will not be used.

In those situations where the use tax is collected at the time of issuance of the BT-111 or BT-111-B, the certificate press-number should be entered on the tax return below the name and address of the taxpayer.

Forms BT-111 and BT-111-B are press-numbered for control purposes. Any voided form will be retained for three years. The stock of forms should be maintained in accordance with CPPM Section 815.020 and accessible only to the FOC and the District Administrator (or authorized representative). See CPPM Section 815.000 et. seq. for additional policy and procedure on control of press numbered forms.

**PREPARATION OF FORM BT-106, VEHICLE/VESSEL OR MOBILEHOME
USE TAX EXEMPTION****655.036**

When a request for use tax exemption is taken in a district or branch office, Form BT-106 must be prepared for each request. Whenever possible, the front of the form should be completed by the taxpayer. The back of the form is to be completed by a Board employee and approved by a supervisor.

Form BT-106 must be completed to show all information required for preparation of the Form BT-111 or BT-111-B and documentation furnished to substantiate an exemption. When possible, copies of evidence presented to substantiate an exemption should be attached to the Form BT-106.

The inability to pay the use tax to DMV at the time of registration is not a valid reason to approve the issuance of Form BOE-111.

When Form BT-111 or BT-111B is issued, the press-number of the form and the name of the employee who signs the form are entered on the respective lines of the Form BT-106. Refer to CPPM Section 815.000 regarding requirements for all press-numbered forms.

COMPLIANCE POLICY AND PROCEDURE MANUAL

PREPARATION OF FORM BT-111, AND FORM BT-111-B

655.038

The use tax exemption certificate is prepared only in original and is delivered to the person requesting the exemption.

The certificate is to be typewritten. If an error is made, a new Form BT-111 or BT-111-B must be prepared as any alteration or erasure voids the certificate.

The use tax exemption certificate is completed to show the name of applicant as it will appear on the vehicle/vessel or mobilehome registration records; make, license number, engine or identification number; DMV or HCD suspense receipt number if issued; and the date of issuance.

If a vehicle/vessel or mobilehome registration packet which includes a Form BT-111 or BT-111-B is referred to the Consumer Use Tax Section by DMV or HCD, the Section will not look beyond the certificate. The presence of the certificate indicates the district office has reviewed the transfer for any use tax liability and has resolved all problems.

REFINANCING OF VEHICLES

655.130

The addition or change of a legal owner, or filing of a chattel mortgage on a vehicle, does not constitute a transfer of registration and consequently, the Department of Motor Vehicles does not require a tax clearance certificate for such transactions.

The Board will not furnish tax clearance certificates for the purpose of refinancing equipment. Should any finance company having an interest in a vehicle of the user insist upon assurance that the user is not delinquent in the payment of his tax, the finance company should be informed by letter with respect to the taxes due from the user.

INTERVENING OWNERS

655.140

A vehicle may change ownership or possession from the original user in whose name it is registered to several subsequent owners before a request is made for clearance and transfer of registration. Whenever this occurs, the tax liability of each person having subsequent ownership of the vehicle, other than the person to whom the vehicle is to be transferred, must be determined and paid before a tax clearance certificate may be issued.

If any person other than the registered owner had ownership of the vehicle prior to the time of transfer, obtain information concerning the names and addresses of the intervening owners and determine whether or not tax liability has been incurred. If there were sales of the vehicles between private parties and use tax would be applicable, sufficient information should be obtained in order that the proper amount of tax can be assessed against and collected from each purchaser.

The amounts due from intervening owners are billed by sending a memo to the Consumer Use Tax Section attaching copies of any pertinent documents. The use tax clearance may be issued by taking a third party deposit for the estimated taxes due from all previous owners.